Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of	)	
	)	
Petition of LCI International	)	
Telecom Corp. and Competitive	)	
Telecommunications Association	)	RM 9101
	)	
for Expedited Rulemaking to	)	
Establish Reporting Requirements	)	
and Performance and Technical	)	
for Operations Support Systems	)	

REPLY COMMENTS OF SPRINT CORPORATION

Sprint Corporation hereby replies to the initial comments of other parties in response to the above-captioned Petition.

In its initial comments, Sprint supported the LCI/CompTel petition and urged the Commission to initiate a rulemaking that would:

- Establish deadlines for the development of technical industry standards for electronic OSS interfaces, and for ILEC implementation of those standards.
- Promulgate rules defining measurement categories and measurement methodologies (common definitions and measurement formulas), and establishing reporting requirements, for evaluating ILEC OSS performance.
- Omit consideration of imposing sanctions for discriminatory OSS performance.

Not surprisingly, the RBOCs and GTE oppose initiation of a rulemaking on OSS issues. However, Sprint believes it is fair to say that much of their opposition relates to issues that, in Sprint's view, should be excluded from the scope of the rulemaking (such as the establishment of technical standards for electronic interfaces) and may also stem from a misunderstanding of the Local Competition Users Group (LCUG) Service Quality Measurements (SQM) document, appended as Appendix B to the LCI/CompTel petition, on which that petition was focused.

The matter of technical standards needs little comment on reply. Most of the RBOCs recognize either implicitly or explicitly the need for national standards for electronic OSS interfaces.[1] All of these parties agree with Sprint and a majority of CLECs that FCC establishment of technical standards is impractical. However, given the acknowledged desirability of national technical standards, it is clear that the industry needs guidance from the Commission – in the form of deadlines for adoption of industry standards, and for implementation of those standards once they are adopted – so that the various companies can prioritize the use of their internal resources towards these efforts.

No sound reason has been advanced for excluding from an OSS rulemaking the setting of such deadlines. Ameritech misinterprets the Commission's Second Order on Reconsideration in the Local Competition docket[2] as having held that national standards should not be adopted. In fact, the Commission denied (in ¶13) requests to defer access

[1] See Bell Atlantic/NYNEX at 2-3; BellSouth at 19-21 and U S West at 17. See also GTE at 4-6.

[2] Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, FCC 96-476, released December 13, 1996.

to OSS until such standards had been adopted, so as not to delay the use of interim interfaces, but at the same time "encourage[d] parties to develop national standards" for such interfaces. Although progress has been made on some fronts by standards organizations, much work remains unfinished. All Sprint asks is that the FCC lend its weight to the goal of completing the development of technical standards within defined timeframes and implementing those standards within a reasonable time after approval by ATIS.

With respect to OSS performance measurement and reporting, much of the opposition from the RBOCs and other ILECs stems from the belief that the intent of the LCI/CompTel petition was to require uniform performance benchmarks for all ILECs. Clearly, the main thrust of the LCI/CompTel petition – and the efforts of the LCUG members – is on developing uniform rules for measuring ILEC OSS performance, i.e., measurement categories and measurement methodologies, and rules for performance reporting, not uniformity in the performance benchmarks themselves.[3] As Sprint discussed in its comments (at 6-7 and 9), there may be legitimate differences in operating conditions from one ILEC to the next, or one geographic region to the next, that would affect each ILEC's OSS performance. What is required beyond dispute is that the ILECs provide reasonable and nondiscriminatory performance – that they treat unaffiliated CLECs as well as they treat themselves or their own affiliates, and that they do not favor one unaffiliated CLEC over another.

[3] It may be observed that the LCUG proposals were developed primarily in the context of resale and unbundled network elements. Time Warner Communications (at 4-9) discusses the OSS requirements of facilities-based CLECs, and urges that the rulemaking include the needs of such carriers. Sprint fully supports that request.

It is clearly reasonable to impose national standards for measuring OSS performance (i.e., what functions should be measured, and how the measurement should be performed), and reporting requirements so that CLECs can ascertain whether they are receiving nondiscriminatory treatment. U S West (at 8, 14-15) recognizes the value of reporting as a means of ascertaining whether nondiscrimination and parity requirements are being met. Ameritech (at 9-10) also appears to acknowledge that measuring and reporting OSS performance are reasonable requirements, though it seeks to rely on individual negotiations for that purpose. Bell Atlantic and NYNEX, in connection with their proposed merger, have offered to report on a number of OSS performance measurements in their ex parte letter filed July 19, 1997 in File No. NSD-L-96-10.[4] The only issue, then, is whether the performance measurement categories, measurement methodologies, and reporting requirements ought to be the subject of Commission rules, or whether they instead should be left up to carrier-by-carrier negotiations.

In Sprint's view, national standards for such matters are by far the preferable choice. Leaving such matters up to carrier-by-carrier negotiations simply hasn't worked. The overwhelming support of the CLEC industry for such standards is itself a demonstration that the negotiation and arbitration process, thus far, has failed to meet the needs of the CLEC industry. Furthermore, if such matters were left up to individual negotiations, there is no guarantee that the product of these negotiations would ever enable any CLEC to determine whether it is receiving nondiscriminatory treatment. If,

[4] Although Sprint welcomes the Bell Atlantic/NYNEX offer as a step in the right direction, it falls short, in terms of measurement categories, measurement methodologies and frequency and duration of reports, from the requirements Sprint believes should be imposed in industry-wide rules.

for example, an ILEC agreed to different measurement categories for each CLEC in a given geographic area, the reports given to each CLEC may not provide any meaningful data on the treatment that any one CLEC is accorded vis-a-vis other CLECs. A standard baseline set of measurement categories, measurement methodologies and reporting requirements is the only practical way of ensuring that nondiscriminatory treatment is being provided.

It is significant that no state commission filed in opposition to the LCI/CompTel petition. On the contrary, the two state commissions that filed in response to the petition – those of California and Wisconsin – both support the need for national standards. As CPUC states (at 7):

> When state commissions develop access requirements, there is a potential that states' regulations may conflict with each other, driving up the cost of access and creating unnecessary inefficiencies. Thus, a clear role for the FCC is to establish broad national standards that reduce the likelihood of states developing OSS regulations that conflict with the actions of other states.

And, while opposing (as does Sprint) the setting of nationwide default performance benchmarks, the Wisconsin Commission (at 1) strongly supports disclosure of performance, and (at 3) asks for further guidance from this Commission.

The recent decision of the Eighth Circuit in Iowa Utilities Board v. FCC (Case No. 96-3321, decided July 18, 1997), is fully consistent with the rulemaking Sprint envisions. There, the Court explicitly upheld the Commission's inclusion of OSS as unbundled network elements to which ILECs are required to provide access (slip op. at 130-133). Nothing in the Eighth Circuit's decision precludes the Commission from issuing further regulations necessary for the purpose of determining whether the

provision of these unbundled elements is being made in a nondiscriminatory manner. Indeed, the Court elsewhere stated (n.23 at 119) that "the FCC is specifically authorized to issue regulations under subsections...251(d)(2) (unbundled network elements)... ."

Not only is the treatment of the OSS issue in the Eighth Circuit's decision consistent with the approach here proposed, the need for such an approach is highlighted by the Eighth Circuit's reversal of the Commission on another issue: the "pick and choose" rule. See Slip op. at 114-117. The Court's invalidation of the pick and choose rule makes it far less likely that, in practice, all CLECs would be able, through the negotiation and arbitration process, to receive the same measurement categories, measurement methodologies, and reporting requirements from an ILEC.

As noted above, other CLECs, including some LCUG members, do advocate the imposition of minimum performance benchmarks, and urge the adoption of the proposed benchmarks in the LCUG SQM as default values that should apply in the absence of ILEC compliance with Commission rules on performance measurement and reporting requirements. As indicated in Sprint's initial comments (at 6-7), it shares the view of other carriers that where an ILEC's performance – even if nondiscriminatory – is so deficient that it is inconsistent with state commission-imposed quality of service standards, the ILEC should be held to those higher standards. Thus, Sprint would leave it to state commissions to develop and prescribe minimum performance benchmarks on an ILEC-by-ILEC basis.

Sprint does not advocate the use of the LCUG performance benchmarks as default standards in the event an ILEC fails to comply with Commission rules on performance measurement and reporting. If an ILEC is unwilling to comply with performance

measurement and reporting rules, there is little reason to believe it would comply with default benchmark values, either. If the Commission promulgates rules that clearly define the categories to be measured, the methodology for measuring them, and reporting requirements, Sprint believes that ILECs will comply with those rules, and that default performance benchmarks are unnecessary. Instead, Sprint believes that adequate remedies at law will exist for CLECs that are commercially harmed by the ILECs' disregard of Commission rules (should that happen).

Other CLECs also disagree with Sprint's view that the rulemaking should not include possible sanctions for failure to provide nondiscriminatory access to OSS. However, as Sprint pointed out in its initial comments, it is very difficult to determine, in the abstract, how much of a deviation from nondiscrimination should trigger a particular form of sanction, be it liquidated damages, injunctive relief, etc. Sprint is concerned that any attempt by the Commission to develop appropriate sanctions, and the trigger points therefor, in this rulemaking, would substantially complicate the rulemaking and delay its completion. There is an urgent need for the promulgation of deadlines for technical standards and compliance with those standards, and for rules setting forth required measurement categories, measurement methodologies, and performance reporting. Any additional issues – particularly such emotionally charged issues as automatic sanctions and penalties – can only serve to delay and detract from prompt resolution of those matters.

CONCLUSION

Sprint urges the Commission promptly to commence a rulemaking on OSS access, consistent with the views expressed in its initial comments and the foregoing reply.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **REPLY COMMENTS** of Sprint Corporation was Hand Delivered or sent by United States first-class mail, postage prepaid, on this the 25th day of July, 1997 to the following parties:

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